

FILED

DEC 16 2024

CLERK, U.S. DISTRICT COURT
NORTH DISTRICT OF CALIFORNIA

MICHAEL LOCKERT

PLAINTIFF,

VS,

EDWARD GUTIERREZ

DEFENDANT,

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CASE NO. 19-CV-08204-PJH

OPPOSITION AND OBJECTIONS
TO DEFENDANT EDWARD GUTIERREZ
EXPERT DISCLOSURE

TABLE OF CONTENTS/SET ONE

(1). opposition AND objections to Defendant
EDWARD GUTIERREZ'S EXPERT DISCLOSURE, page's 1-7,
With EXHIBITS (1),(2),(3),(4).

1 Michael Luckert

2 391 ELLIS ST, San Francisco, CA 94102

3 707-803-3836

4 ATTORNEY in PRO-SE: Michael Luckert

5
6 UNITED STATES DISTRICT COURT
7 NORTHERN DISTRICT OF CALIFORNIA

8 Michael Luckert

CV-19-08204-PJH

9 Plaintiff,

10 vs.

11 OPPOSITION AND objections

12 San Francisco Police Dept. to Defendant Edward

13 AND Officer Gutierrez, Gutierrez's Expert

14 Defendant.

15 Disclosure.

16 I, Michael Luckert, am a carpenter by trade.

17 but at this time I am a ~~incarcerated~~ ^{inmate}.

18 At the time of this incident at the Library on

19 February 26, 2019 I was a free man. On this

20 day I experienced EXCESSIVE FORCE with officer

21 Gutierrez assaulting me, Michael Luckert, AND

22 injuring me with EXCESSIVE FORCE. Violating the

23 (8th Amendment) and also Medical Neglect which

24 I think should be added to the charges of

25 2 counts of EXCESSIVE FORCE. I am at this

26 time suing the San Francisco Police Dept. in

27 their official capacity.

28 Because the San Francisco Police dept. and

29 officer Gutierrez have erased, destroyed video

30 Surveillance/body camera's; And used Medical

31 opposition AND objections to defendant Edward Gutierrez/ Page 1 of 7

32 EXPERT Disclosure.

1 Neglect on Michael Luckert, Gutierrez should
2 be held responsible in his official capacity and
3 individual capacity for using excessive force on
4 me, Michael Luckert, And if the honorable
5 Judge will look at my original claim form I believe
6 that is what I asked for from the very
7 beginning.

OPPOSITION

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9
10 (1.A) From page 1-27 in defendant Edward Gutierrez's
11 Expert disclosure is nothing but a defense based on
12 if I, Michael Luckert, was resisting arrest, delaying
13 Police etc...

14 (1.a) It has already been established that I did not
15 resist arrest, etc., assault a librarian, or commit any
16 crime that day at the library on February 26, 2019.
17 All charges got dropped and video surveillance
18 has and would prove my innocence that the
19 San Francisco Police Dept. and office of Gutierrez
20 have destroyed or erased. This proof of destroyed
21 or erased video surveillance camera's is in
22 the defendant's reply to Michael Luckert's
23 motion to compel. Which I have requested through
24 a request for documents on March 18, 2024 but have
25 never been sent. And should be considered as a joint
26 undisputed fact of evidence at trial. Because of
27 established documentation for trial.

28
Opposition and objections to defendant Edward
Gutierrez expert disclosure.

1 (2.A) In Page 28 line 15-26 of (defendant
2 Edward Gutierrez's Expert Disclosure) the Doctor
3 is saying that I, Michael Luckert, have a open wound
4 On MY right thumb that is swollen a little ; and left
5 4th digit tip of finger that are infected and
6 Swelled up a little , on the 16th of February, 2019,
7 FROM working on my car.

8 (EXHIBIT.1), San Francisco Jail Medical Report,
9 Dated: 2/22/19, Page 31 shows that I was
10 prescribed any, biotics and I.B.U. For the swelling.
11 (Q4). On March 1, 2019 I , Michael Luckert, was
12 seen at Valley Care Pleasanton.

13 (EXHIBIT.2), Valley Care Pleasanton, Page 11, in
14 the highlighted area does not show any diagnosis
15 or signs of infection or open cut's on my hand's .

16 (EXHIBIT.3), Valley Care Pleasanton, Page 25,
17 highlighted area shows that the medication that
18 I got was only I.B.U. Profen (Motrin), No
19 Medication's were prescribed for infection.

Conclusion

21 (1.) No Antibiotics were prescribed for infection
22 at Valley Care Pleasanton. So Michael Luckert infected
23 wounds and swelling were healed from 2-16-19 San Francisco
24 Jail triage/ Medical Records Appointment . After all
25 it is more then likely that a small wound with
26 antibiotic's and I.B.U. Profine would be healed
27 in 10 days.

1 (2.) The Excessive Force that happened
 2 to Michael Luckert was a NEW INJURY.
 3 PLEASE Refer to All Medical Report's In
 4 Opposition to Summary Judgment, Filing date:
 5 6/29/22.

6 (3.) Video Surveillance would show the excessive
 7 Force through body Camera's but the defendant
 8 and San Francisco County Jail Police dept.
 9 erased, destroyed the Video surveillance/Body
 10 camera Footage. This Proof is in the
 11 defendant's response to my Motion to compel,
 12 which I have already did a meet and confer
 13 with and the defence did not respond
 14 on that issue of sending me the documented
 15 Proof here at Santa Rita Jail even though
 16 I asked through a document Request. The
 17 defence should be held responsible for breaking
 18 the Federal rules of Civil Procedure Rule 37 (e),
 19 (1), (2), (Failure to Preserve Electronically
 20 stored information).

21 (3-A) The excessive Force that happened with
 22 Police officer Gutierrez happened after the
 23 triage and in the Safety cell. As explained
 24 (In opposition to Summary Judgment) Filed
 25 date: 6/29/22, Page 5, Line 11-24. And
 26 Amended complaint. And Again Body Camera's
 27 and video surveillance would show the 2
 28 counts of Excessive Force.

CONCLUSION

(Defendant Edward Gutierrez's Expert discovery), Page 28 Line 28-41 is irrelevant and the Defence and the honorable Judge should pay attention to time signature and EXHIBIT'S In opposition to Summary Judgment. EXHIBIT (i). At 22:17 I complained about my hand injury. EXHIBIT (B), Page 1 and 2, Highlighted Areas. I complained about my hand injury.

(EXHIBIT.4), San Francisco Jail Medical

Report, Page 33 highlighted area will show that right after the excessive force At Safety Cell time 17:50 continuing on to the next Page, 34 highlighted area

(EXHIBIT.B), (In opposition to summary Judgment)

Filed 6/29/22, Page 1 I complained. Page 2 time signature: 19:20 I complained again about my hand injury.

(4.A) In (defendant EDWARD GUTIERREZ'S

Expert disclosure), Page 29 lines 19-21 the defence said I said "In an attempt for the officer not to injure me I put just enough force on my wrists that were hand cuffed behind me so that my wrists and finger's would not break.

(4.a) Officer Gutierrez did not give me any command, or reassess the situation. He pushed

my hand beyond the capacity of which it will opposition and objections to defendant EDWARD Gutierrez expert disclosure

1 bend. At this time is when I tryed to
2 stiffen MY hand's but it did not work
3 Officer Gutierrez was just hell bound on
4 Injuring me, in which he did. This behavior
5 being objectively unreasonable.

AUTHORITIES OF CASE LAW

6
7 Please refer to (In opposition to
8 SUMMARY Judgment), Filed on 6/29/22. Pages
9 1-4 .

OBJECTIONS

10 For the defence not to be able to
11 use any of (Defendant Edward Gutierrez's
12 Expert disclosure in trial).

CLOSING STATEMENT

13 Rule 52 (6), of the Federal Rules of civil
14 procedure. Setting aside the findings of fact,
15 whether based on oral or other evidence, must
16 not be set aside unless clearly erroneous, and
17 the reviewing court must give due regard to
18 the trial court's opportunity to judge the
19 witnesses' credibility.

RELIEF

20 For Plaintiff to win ^{me} in trial with 2 count's
21 of excessive force And a added charge of
22 opposition AND objections to defendant Page 6 of 7
23 EDWARD GUTIERREZ EXPERT disclosure

1 medical Neglect,

2 Date : ^{ML} ~~3-27-2024~~ 12-13-2024

3 4 signature of attorney in pro-se :

5 *Michael Luckert*

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Opposition and objections to defendant Edward Gutierrez's expert disclosure page 7 of 7

COURT COPY ^{ML}

EXHIBIT (I.)

SAN FRANCISCO JAIL
MEDICAL REPORT page 31

JHS Live03/24/21 13:01

Encounter Report

ID: 19641 (2260817) Date: 02/22/19 11:10

Patient: Luckert,Michael L Provider: System,Administrator

BirthDate: 07/12/69 Type: Discharge

Location: Site: County Jail 1

Tuberculin Purified Protein STU ind soln x1 0.1ml OTUC 02/16/19-02/22/19

Discontinued Patient Discharged

Cephalexin 500mg po cap x1 QID 02/19/19-02/25/19 *SA

Discontinued Patient Discharged

Ibuprofen 600mg po tab x1 QID 02/19/19-02/27/19 PRN *SA

Discontinued Patient Discharged

Wound Care Dressing Change 02/20/19 QD clean wounds to finger and thumb, place bacitraicin and gauze...once a day..

Discontinued. Patient Discharged

Influenza Virus Vaccine, Inactivated (PF) im susp x1 OTUC 02/19/19-02/25/19

Discontinued Patient Discharged

Septra DS (gen) 800/160mg po tab x1 TAB BID-AP 02/22/19-02/25/19 *SA

Discontinued Patient Discharged

Wound Care Other Due: 02/17/19 17:00 right thumb and left 4th digit warm soapy soak twice a day and prn. Dressing open wounds with medi honey and DSD please. Until healed. SC if increased pain swelling redness or onset of fever.

Cancelled. Patient Discharged

JHS Return To Clinic re eval wounds to fingers, one finger is cellulitic...abx ordered

Cancelled. Patient Discharged

End-of-Report

EXHIBIT (1)

EXHIBIT (2)

Valley Care PLEASANTON
MEDICAL REPORT



VALLEYCARE PLEASANTON Luckert, Michael
 5555 W Las Positas Blvd MRN: 75861773, DOB: 7/12/1969, Sex: M
 Pleasanton CA 94588-4000 Adm: 3/1/2019

03/01/2019 - ED in VCP Emergency Department (continued)

Events (continued)

Medication List

Medication List

This report is for documentation purposes only. The patient should not follow medication instructions within. For accurate instructions regarding medications, the patient should instead consult their physician or after visit summary.

Prior To Admission

None

Discharge Medication List

None

Stopped In Visit

None

ED Provider Note

ED Provider Notes by Tjoe, Andreas, MD at 3/1/2019 1:29 PM

Author: Tjoe, Andreas, MD
 Filed: 3/1/2019 1:51 PM
 Editor: Tjoe, Andreas, MD (Physician)

Service: —
 Date of Service: 3/1/2019 1:29 PM

Author Type: Physician
 Status: Signed



**Emergency Department
 Provider Note**

Name: Michael Luckert
 MRN: 75861773

ED Arrival: 3/1/2019 12:17 PM
 Room #: 16

History & Physical

Triage:

Chief Complaint:
 Pt is presents with
 • Hand Swelling

Pt reports injury to bilateral hands by PD, both hands are swollen and pt reporting pain diffusely, +csm, +pulses.

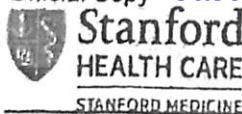
HPI

49 Y male here for medical clearance. Patient said that he was assaulted by the police officers on Tuesday. He said he was beat up. Now has swollen hands bilaterally and right shoulder pain. Denies chest pain. He does have a visible bruise to the left lower rib. No shortness of breath.

No fevers, cough.

EXHIBIT (3)

VALLEY CARE PLEASANTON
MEDICAL REPORT



VALLEYCARE PLEASANTON Luckert, Michael
 5555 W Las Positas Blvd MRN: 75861773, DOB: 7/12/1969, Sex: M
 Pleasanton CA 94588-4000 Adm: 3/1/2019

03/01/2019 - ED in VCP Emergency Department (continued)

Medication Administrations (continued)

Frequency: ONCE

Admin Instructions: Give with food or milk.

Rate/Duration: — / —

This drug is associated with a BLACK BOX WARNING. Click on the blue hyperlink below to review the details.

Timestamps	Action	Dose	Route	Other Information
Performed 03/01/19 1336	Given	600 mg	Oral	Performed by: Maher, Shannon

Documented: 03/01/19 1336

Other Orders

Medications

IBUPROFEN 200 MG PO TABS (Active)

Electronically signed by: In-Medication Dispense From Medselect on 03/01/19 1332

Status: Active

Ordering user: In-Medication Dispense From Medselect 03/01/19 Ordering mode: Standard 1332

Frequency: 03/01/19 1332 - Until Discontinued

Admin instructions: SHANNON MAHER: cabinet override

This drug is associated with a BLACK BOX WARNING. Click on the blue hyperlink below to review the details.

Medication comments: SHANNON MAHER: cabinet override

Package: 0904-7914-61

Ibuprofen (MOTRIN) tablet 600 mg (Completed)

Electronically signed by: Tjoe, Andreas, MD on 03/01/19 1316

Status: Completed

Ordering user: Tjoe, Andreas, MD 03/01/19 1316

Ordering provider: Tjoe, Andreas, MD

Authorized by: Tjoe, Andreas, MD

Ordering mode: Standard

Frequency: STAT Once 03/01/19 1317 - 1 occurrence

Class: E-Prescribe

Acknowledged: Maher, Shannon 03/01/19 1331 for Placing Order

Admin instructions: Give with food or milk.

This drug is associated with a BLACK BOX WARNING. Click on the blue hyperlink below to review the details.

Package: 0904-7914-61

Flowsheets

Advance Directive and POLST

Row Name 03/01/19 1238

Advance Directive

Does patient No
 have an Advance
 Directive?

Would the patient Patient offered
 like to establish information but not
 an Advance interested
 Directive?

Custom Formula Data

Row Name 03/01/19 1409 03/01/19 1257 03/01/19 1252 03/01/19 1221

Relevant Labs and Vitals

Temp (in Celsius) — — — 36.9

Pain 1st Site

EXHIBIT (4.)

SAN FRANCISCO Jail
MEDICAL REPORT

JHS Live03/24/21 13:01

Encounter Report

ID:	19641 (2266017)	Date:	02/26/19 18:48
Patient:	Luckert, Michael L.	Provider:	Yu, Laura
BirthDate:	07/12/69	Type:	BHS Screening
Location:		Site:	County Jail 1
Primary RFV	Psychotic Disorder (Provisional)	Secondary RFV	Amphetamine Induced Psychotic Disorder (Provisional)

Patient Information

Arrest Date 02/26/2019

Referral from JMS Safety Cell

Safety Cell Date: 02/26/2019

Safety Cell Time: 17:30

Safety Cell Placement Reason: Danger to Self, Danger to Others Per S/C sheet: Client was "combative with arresting officers. Resistive with triage process. Did not answer if he was suicidal."

"Pt resistive, and combative with custody. Talking to self during triage. Denied si/hi. Placed into SC due to DTO"-JMS

Charges at Arrest 148(a)(1): RESISTING, OBSTRUCTING, DELAYING OF A PEACE OFFICER OR EMT

602.1(b):INTERFERING WITH A PUBLIC AGENCY

415:DISTURBING THE PEACE

171(b):POSSESSION OF WEAPON IN COURTHOUSE OR PUBLIC BUILDING

Legal Status: Misdemeanor

Language Used to Provide Service: English

History of Community Mental Health Treatment: Yes

Inpatient Psychiatric Hospitals: true

Client reported he has been hospitalized for multiple days in San Leandro before. No MH services or hospitalizations in LCR/CCMS.

Current Mental Health Provider Denies. None on LCR/CCMS.

Psychiatric History In Custody

History of Hospitalizations or 5150 Hold: false

History of Safety Cell Placements: true

Client has been in SF county jail in 2005, 2011, and 2019. Last time he was in custody was in February 2019, he was placed in the s/c for DTO at CJ4 and said he will fight if housed on mainline. Signed out and housed per class, diagnosed personality disorder nos.

Currently Conserved: No

Regional Center Client: No

Are You Licensed: Yes

Reports Psychiatric Medication Last 3 Months: No

Current Substance Use: Alcohol Amphetamine Cocaine Reported he drank alcohol last night.

Ambiguous of about cocaine use. Reported history of head banging when on meth. Appeared to be detoxing from alcohol, bloodshot eyes. Labile mood could be due to stimulant use.

Risk Assessment

Wish to be Dead: No

Suicidal Thoughts: No

Risk Assessment End

MICHAEL LUCKERT

Plaintiff

VS.

EDWARD GUTIERREZ

DEFENDANT

UNITED STATES DISTRICT
COURT

case No. 19-cv-08204 - PJH

OPPOSITION TO

SUMMARY JUDGMENT

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(4) OPPOSITION TO SUMMARY JUDGMENT

(5.) SUPPLEMENTAL TO OPPOSITION FOR SUMMARY Judgment

(6.) (I) AUTHORITY OF CASE LAW (set two)

Default; Default Judgment for failure to Preserve

Electronically stored INFORMATION

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1.A San Francisco Medical report Page 32

1.B San Francisco Medical report Pages 34 and 35

1.C San Francisco Medical Page 39

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1.E Declaration of Brian Mendoza

1.F Declaration of Brian Mendoza

1.G Valley Care Medical Pleasanton

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1.I Santa Rita Jail
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1.J Zuckerberg general
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1.K DUES card For Proof
of Out of Pocket
Expenses

1.L custody Activity
cen. 9389699
PFN: ULW-491

1.M carpenters Detail
hours

Original Complaint under
the Civil Rights Act.42
1.N U.S.C.5 1983, Document
1 Filed 12/17/19, Page 4,
Line 4-5

1.O OFFICE of the city
ATTORNEY, Letter Dated
April 17, 2024

Declaration of
Edward Gutierrez in
Support of defendants'
MOTION FOR SUMMARY

Judgment Document
70-8 Filed 05/11/22
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San Francisco Sheriff's
1.Q Department incident
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Verification of
Employment

2.A Verification of
employment